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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ESTHER HERNANDEZ,

Plaintiff(s),

v.

FLAGSTAR BANK, FSB,

Defendant(s).

2:13-CV-556 JCM (NJK)

ORDER

Presently before the court is defendant Flagstar Bank, FSB's motion to dismiss filed on April 1, 2013. (Doc. # 2).¹ To date, pro se plaintiff Esther Hernandez has failed to file an opposition.²

Pursuant to Local Rule 7-2(d), an opposing party's failure to file a timely response to any motion constitutes the party's consent to the granting of the motion and is proper grounds for dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the district court is required to weigh several factors: "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions." *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)).

¹ Defendant also filed a request for judicial notice (doc. # 3).

² Plaintiff had up to, and including, April 18, 2013, to respond.

1 The instant motion seeks dismissal of plaintiff's wrongful foreclosure complaint. Although
2 the court must construe the pleadings liberally, "[p]ro se litigants must follow the same rules of
3 procedure that govern other litigants." *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987); *see also*,
4 *Ghazali*, 46 F.3d at 54 ("Although we construe pleadings liberally in their favor, pro se litigants are
5 bound by the rules of procedure."); *see also Jacobsen v. Filler*, 790 F.2d 1362, 1364 (9th Cir. 1986)
6 ("[P]ro se litigants in the ordinary civil case should not be treated more favorably than parties with
7 attorneys of record."). In light of plaintiff's failure to respond, and weighing the factors identified
8 in *Ghazali*, the court finds dismissal appropriate.

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Flagstar Bank,
10 FSB's motion to dismiss (doc. # 2) be, and the same hereby is, GRANTED. This case is hereby
11 dismissed without prejudice.

12 DATED April 25, 2013.

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15 UNITED STATES DISTRICT JUDGE
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